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GEORGINA R. DUGGS, Individually and
as Trustee of the EDWARD & GEORGINA
DUGGS LIVING TRUST; ZANE DUGGS
and GEMMA DUGGS, minors, by
GEORGINA R. DUGGS, their natural guardian

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA, SAN FRANCISCO

GEORGINA R. DUGGS, Individually and
as Trustee of the EDWARD & GEORGINA
DUGGS LIVING TRUST; ZANE DUGGS and
GEMMA DUGGS, minors, by GEORGINA R.
DUGGS, their natural guardian,

Plaintiffs,

v.

JAMES EARL EBY,

Defendant.

Case No.: 3:14-cv-03734

**STIPULATION AND ~~[PROPOSED]~~ ORDER
RE TEMPORARY RESTRAINING ORDER
AGAINST DEFENDANT JAMES EARL
EBY AND MOTION FOR PRELIMINARY
INJUNCTIVE RELIEF**

RECITALS TO STIPULATION

On August 18, 2014, Plaintiffs filed the above-reference suit against Defendant Mr. Eby alleging that, *inter alia*, Eby fraudulently obtained \$1.25 Million in life insurance death benefit proceeds from a MetLife life insurance policy No. 210227420USU, issued by MetLife Investors USA Insurance to

insured, Mr. Edward L. Duggs, the late husband of Plaintiff Georgina R. Duggs via an improper and illegal life settlement.

On August 22, 2014, Plaintiffs filed an Ex Parte Motion For Temporary Restraining Order Against Defendant Eby seeking to enjoin him from spending, transferring, concealing, dissipating, encumbering, assigning, or otherwise alienating \$1.25 Million in assets.

On August 25, 2014, this Court issued an Order setting the hearing date for the Temporary Restraining Order to August 27, 2014 at 3:00 p.m.

On August 26, 2014, at the moving parties' request, this Court issued an Order continuing the hearing date for the Temporary Restraining Order to September 3, 2014 at 1:30 p.m.

STIPULATION

Subject to the above recitals, all Plaintiffs and Defendant hereby stipulate to the following:

All Plaintiffs and Defendant, through their respective attorneys, hereby stipulate and agree that the hearing re Plaintiffs' Motion for a Temporary Restraining Order against James Eby currently scheduled September 3, 2014 is not necessary and shall be taken off calendar as Mr. Eby, who although disputes the merits behind the request for the Temporary Restraining Order, has made representations that none of the assets that are the subject of this lawsuit have been dissipated and that Mr. Eby agrees to abstain from alienating \$1.25 Million in assets pending this Court's resolution of Plaintiffs' Motion for Preliminary Injunctive Relief set for hearing September 17, 2014 at 2:30 p.m. Mr. Eby agrees to this stipulation primarily because he is out of the country and unable to adequately participate in the defense of the proceedings on an ex parte basis.

In lieu of a temporary restraining order, all parties in this matter agree and stipulate to the following:

- i. Defendant Eby is presently in possession of the \$1.25 Million in life insurance death benefit proceeds received from the MetLife life insurance policy issued to the late Edward L. Duggs that is the subject of this pending litigation;
- ii. Further, from this date forward, neither Defendant Eby, nor any employee or agent of his, will spend, transfer, conceal, dissipate, encumber, assign, or otherwise alienate the \$1.25 Million in assets prior to this Court's adjudication of Plaintiffs' Motion for Preliminary Injunctive Relief, currently scheduled to be

1 heard before this Court on September 17, 2014 at 2:30 p.m., at the Northern
2 District of California, San Francisco, 450 Golden Gate Avenue, San Francisco,
3 California, 94102, in Courtroom 3, with opposition due September 9, 2014, and
4 reply (if necessary) due September 12, 2014.

5 iii. Plaintiffs agree to withdraw their Motion for Temporary Restraining Order
6 currently set for September 3, 2014 at 1:30 p.m. and request the Court take the
7 hearing date off calendar in lieu of the Stipulation and the pending Motion and
8 hearing regarding the preliminary injunction.

9
10 **IT IS SO STIPULATED:**

11
12 Dated: August 27, 2014

KORNBLUM, COCHRAN, ERICKSON
& HARBISON, LLP

13 /s/ Nicholas Peterson
14 NICHOLAS PETERSON, ESQ.
15 Counsel for Plaintiffs

16 Dated: August 27, 2014

BEITCHMAN & ZEKIAN, LLP

17 /s/ David P. Beitchman
18 DAVID P. BEITCHMAN, ESQ.
19 Counsel for Defendant

20
21 **~~[PROPOSED]~~ ORDER**

22 In light of the foregoing Stipulation and good cause being shown therefore:

23 IT IS HEREBY ORDERED that:

24 Plaintiffs' Motion for Temporary Restraining Order Against Defendant Eby set for hearing
25 September 3, 2014 at 1:30 p.m. is hereby taken off calendar.

26 In lieu of this, Plaintiffs move the Court to provide Preliminary Injunctive Relief on Wednesday,
27 September 17, 2014 at 2:30 p.m., at 450 Golden Gate Avenue, San Francisco, California, 94102, in
28 Courtroom 3 to enjoin Defendant JAMES EARL EBY throughout the term of the instant lawsuit from

1 spending, using, transferring, or otherwise alienating \$1.25 Million in life insurance death benefit
2 proceeds paid to Defendant under life insurance policy No. 210227420USU, issued by MetLife
3 Investors USA Insurance to insured, Edward L. Duggs, Jr., with the Opposition brief due September 9,
4 2014, and the Reply brief (if necessary) due September 12, 2014.

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6 **IT IS SO ORDERED:**

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8 Date: 8/28/14



The Hon. Richard Seeborg
District Court Judge